

3766. Misbranding of artificial blackberry cider and artificial cherry cider. U. S. v. 2 Kegs of Artificial Blackberry Cider and 1 Keg of Artificial Cherry Cider. Default decree of condemnation and forfeiture. Product ordered sold. (F. & D. No. 6038. I. S. Nos. 11239-k, 11240-k. S. No. C-106.)

On October 26, 1914, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of one 16-gallon keg and one 10-gallon keg of artificial blackberry cider, and one 16-gallon keg of artificial cherry cider, remaining unsold in the original unbroken packages at Cincinnati, Ohio, alleging that the product had been shipped and transported from the State of Kentucky into the State of Ohio, and charging misbranding in violation of the Food and Drugs Act. The artificial blackberry cider was labeled, on one end of keg: "Louisville Cider & Vinegar Works, Louisville, Ky. Artificial Blackberry Cider, Coal Tar Color, Benzoate Soda." The artificial cherry cider was labeled, on one end of keg: "Louisville Cider & Vinegar Works, Louisville, Ky. Artificial Cherry Cider, Coal Tar Color, Benzoate Soda." All the kegs were labeled on the other end: "The contents of this package contains no wine or alcohol."

Misbranding of the product was alleged in the libel for the reason that the said kegs and packages containing said articles of food bore each a certain statement, to wit, "The contents of this package contains no wine or alcohol," regarding said articles of food and the ingredients and substances contained therein, which said statement was false and misleading, in that, as a matter of fact, said articles of food did contain alcohol in quantities greater than $4\frac{1}{2}$ per centum by volume, and, further, in that said articles of food were labeled, marked, and branded as aforesaid so as to deceive and mislead the purchaser thereof in that the aforesaid labels, marks, and brands upon said articles of food represented the same to contain no wine or alcohol, whereas, in truth and in fact, each of the articles of food and each of the kegs and packages contained alcohol in quantities greater than $4\frac{1}{2}$ per centum by volume.

On January 7, 1915, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and, it appearing to the court that the labels and brands upon the kegs might be removed and said kegs relabeled so that the articles of food contained therein might be sold lawfully and without violating any law of any State or Territory of the United States of America, it was ordered by the court that the said kegs should be relabeled as aforesaid under the supervision of a United States food and drug inspector and should be disposed of by the United States marshal by sale, either public or private, as in his discretion might best serve the public interests.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *April 24, 1915.*